

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AVON C. QUIERO, JR.

Plaintiff,

v.

OFFICER MUNIZ, *et al.*,

Defendants.

CIVIL ACTION NO. 3:14-CV-00225
(JUDGE CAPUTO)

(MAGISTRATE JUDGE MEHALCHICK)

ORDER

NOW, this 27th day of January, 2017, upon review of the Report and Recommendation of Magistrate Judge Mehalchick (Doc. 46) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) Magistrate Judge Mehalchick's Report and Recommendation (Doc. 46) is **ADOPTED in its entirety**.
- (2) Defendants' motion to dismiss (Doc. 37) Quiero's Amended Complaint (Doc. 31) is **GRANTED in part and DENIED in part**;
- (3) Quiero's Fourteenth Amendment pre-deprivation denial of due process claim against Defendant Karnes is **DISMISSED with prejudice**;
- (4) Quiero's First Amendment retaliation and Fourteenth Amendment post-deprivation denial of due process claims against Defendant Karnes is **DISMISSED without prejudice**;
- (5) Quiero's request for a specific sum of money damages is **STRICKEN** from the claim for damages pursuant to Local Rule 8.1;
- (6) Defendants' motion to dismiss is **DENIED** as to Quiero's First Amendment free exercise of religion claim against Defendant Karnes;
- (7) Quiero has **thirty (30) days** from the date of entry of this Order to file a second amended complaint in accordance with the applicable federal pleading standards and consistent with the Report and Recommendation (Doc. 46); and
- (8) The matter is **RECOMMITTED** to Magistrate Judge Mehalchick for further proceedings.


A. Richard Caputo
United States District Judge